

now carry up to a felony charge and punishment. Senator Matzke, with the university, chose to mention specific types of conduct, such as branding, beating and whipping. Mine does not do that, and I thought that approach would be better. We would not, then, Senator Momen, be making something more specific which you'd be tied to in bringing a prosecution, we'd be talking about a general category of conduct. If it did not rise to the level of the seriousness of that type of conduct under existing statutes, it would be charged as hazing. If it rose to a higher level, then it could be charged under the assault statutes, and may reach the level of a very serious felony. That is why I took the general language, the conduct, as you point out, which actually injures. I also felt that you can criminalize conduct that creates a substantial risk of injury, but I am not wedded to that. I am disturbed about the listing of specific types of conduct and then labeling them a Class II misdemeanor. But I say again, I know that my amendment is going to be rejected, and then I will comment, when we get to Senator Matzke's amendment, in more detail on the specifics of his. Some of these prosecutors, Senator Matzke, are incompetent, and I am going to give you an example. I was charged with careless driving, that's why I know about this particular statute, and the charge they brought, they used unconstitutional language that had already been specifically struck down by the court. So I pointed that out in a motion to quash. My motion was upheld, so they corrected that. Then when I went to trial, the judge said I was guilty and he said I was guilty because the conduct I engaged in was likely to injure, which had been struck down as unconstitutional by the Supreme Court. So I simply used that point on appeal and his decision was overturned.

PRESIDENT ROBAK: One minute.

SENATOR CHAMBERS: So the fact that prosecutors tell you this does not mean that they are conversant with the law or are even concerned. They want what appears to them to be an easy way to prosecute somebody or threaten somebody with prosecution. If I am going to vote for a piece of legislation, I will not vote for it when in my mind I am convinced that it is either unworkable or unconstitutional. The amendment that I am offering does not satisfy me, but I think it is a better starting point than the green copy, and having read your rewrite, I think it is a better starting point than that also. But after mine is defeated, then, as I stated, there will be a chance to discuss yours in more specific detail.